xIN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE THIRTEENTH DAY OF JULY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 11753 of 2001

Between:

Ch.Srinivasulu, E-352306 S/o. Gandhi,
R/o. Kolimi pet, Bhimavaram,
West Godavari District.

..... PETITIONER

AND

1 The Government of Andhra Pradesh, Rep. by its Principal Secretary to Government, Labour Employment Training & Factories Department, Secretariat, Hyderabad, Andhra Pradesh.
2 The A.P.S.R.T.C., Rep. by its Regional Manager,
West Godavari Region, Eluru, West Godavari District.
3 The A.P.S.R.T.C., Rep. by its Depot Manager,
Bhimavaram Depot, West Godavari District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an order or direction more particularly one in the nature of writ of Mandamus declaring the action of the 1st respondent herein in refusing to refer the dispute to the Labour Court stating that the dispute raised by men is belated case vide Proc in Lr.No.2408/Lab.I/A2/97, dt. 17.12.1997 and the punishment order in Proc.No.02/161(2)/90-BVRM, dt. 9.1.19991, which was confirmed by the appellate authority and as well as the review authority vide Proc.No.PA/20(65)/91-DVM dt. 22.11.1991 and Proc.No.PA/20/42/1994-RM-RJY, dt. 28.3.1994 respectively as illegal, unjust, arbitrary and as such laible to be set aside in the interest of justice with a consequential direction to the Respondents 2 & 3 herein to pay the arrears of deferred increments forthwith w.e.f. 9.1.1991 and fair play in action.

Counsel for the Petitioner: MR.S.M.SUBHAN

Counsel for the Respondents: GP FOR LABOUR

The Court made the following :

ORDER:

Declaring the action of the 1st respondent in refusing to refer the dispute to the Labour Court stating that the dispute raised by the petitioner is belated one vide proceedings in L.R.No.2408/Lab.1/A2/97, dated 17.12.1997 the present writ petition is filed.

The brief facts that are necessary for the disposal of the writ petition may be stated as follows:

For certain irregularities a charge sheet has been issued to the petitioner and after conducting a regular enquiry, punishment of stoppage of one annual increment with cumulative effect has been imposed. Aggrieved by the action of the respondent, he filed a petition before the Assistant Commissioner of Labour for conciliation. The suggestion given by the Assistant Commissioner of Labour was not accepted by the respondent Corporation and therefore, the Assistant Commissioner sent the failure report to the Government for referring the matter for adjudication. But the Government refused to refer the dispute to the Labour Court. Challenging the same, the present writ petition is filed.

Learned Counsel appearing for the petitioner contended that the 1st respondent has no power or authority to refuse to refer the dispute to the Labour Court on the ground of delay and therefore the impugned order suffers from legal infirmity.

On the other hand the respondent has contended that since there was a delay of three years, the dispute raised by the petitioner does not merit reference for adjudication in the Labour Court and therefore the Government rightly rejected his case. This aspect of the case has been considered by this Court in Writ Petition No. 23432 of 2004, dated 23.12.2004 and observed that having considered the facts and circumstances of the case, the Government clearly erred in refusing the case of the petitioner only on the ground of delay.

Counsel for the 1st respondent contended that the Government has power to refuse to refer the dispute to the labour Court when it feels that the dispute is belated.

In this case the disciplinary authority passed the order of punishment in the year 1991, whereas the appeal was dismissed in the year 1994 and thereafter conciliation was raised before the concerned authority in the year 1997 and in the same year the conciliation talks failed and therefore the Assistant Commissioner of Labour addressed a letter to the Government for referring the dispute to the Labour Court by the impugned proceedings dated 17.12.1997 which reads as follows:

> *Please refer to the conciliation report 2nd cited, further I am directed to inform you that the dispute raised by you does not merit reference for adjudication as it is a belated case.*

As seen from the impugned proceedings, the only ground on which the reference was rejected was because of delay. The delay itself cannot be a ground for referring the case to the dispute. Hence, the writ petition deserves to be allowed.

In the result, the Writ Petition is allowed.

13.07.2005

MRKR

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Bilal Nazki, the Acting Chief Justice on this Wednesday the Thirteenth day of July Two Thousand and Five.

To

1. The Principal Secretary, Government of Andhra Pradesh, Government, Labour Employment Training & Factories Department, Secretariat, Hyderabad, Andhra Pradesh.
2 The Regional Manager, A.P.S.R.T.C., West Godavari Region, Eluru, West Godavari District.
3 The Depot Manager, A.P.S.R.T.C.,
Bhimavaram Depot, West Godavari District.

4 Two C.Cs to the Government Pleader for Labour, High Court Buildings, Hdyerabad.

5 Two C.D.copies.